THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.22113 of 1997

ORAL ORDER:

This writ petition is filed seeking a Certiorari to call for the records relating to award made in I.D.No.113 of 1995 dated 30.4.1995 on the file of the first respondent-Labour Court and quash the same as arbitrary and illegal.

The petitioner is the management and second respondent is workman. It appears, second respondent was engaged on daily wage basis in the petitioner's industry with effect from 3.2.1994 till the date of his termination from service i.e. 28.4.1995. Thereafter, the petitioner was re-engaged with effect from 17.4.1996. Having aggrieved by the termination order dated 28.4.1995, the respondent-workman raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 alleging that he has put in more than 240 days of continuous service, therefore, his services could not have been terminated without following the mandatory provision of Section 25-F of the I.D. Act.

The petitioner management filed counter denying the allegations made in the claim petition and stated that the second respondent-workman has worked during the period from 3.2.1994 to 31.7.1994 and again from 3.1.1995 to 28.4.1995 intermittently depending upon the existence of the work. Further, the second respondent never worked continuously for 240 days as alleged.

Before the Labour Court, workman himself was examined as W.W.1 and marked documents Exs.W1 to W7. On behalf of management, M.W.1 was examined and document Exs.M1 to M17 were marked. After a detailed consideration of the entire documentary evidence placed before it, the Labour Court came to the conclusion that the workman had completed 240 days between 3.2.1994 and 28.4.1995, therefore, his termination was

contrary to the provisions of Section 25-F of the I.D. Act and thus, directed reinstatement of the workman with continuity of service, but without any backwages. Aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner strenuously contended that the Labour Court failed to see that the second respondent never worked continuously for 240 days preceding the date of his termination from service, therefore, it cannot be said that the petitioner-management had violated provisions of Section 25-F of the I.D. Act.

Whereas, the learned counsel for respondents supported the award passed by the Labour Court and submitted that the Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material made available on record.

There is no necessity of going into all the details. It is suffice to notice the findings arrived at by the Labour Court at para 6 of the award, which reads as under:

> "Ex.W-6 shows that the petitioner was terminated from service after 28.4.1995 as the services were used subject to availability of work on daily wage rate basis. It is admitted by the respondent that the petitioner has worked for over and above 10 months period covering from February 1994 to July 1994 and again from January 1995 to April 1995 and the management has not denied the sickness of the employee for a period of 4 months in the NIMS hospital and ESI hospital but denied that he reported to duty on 13.8.1995 with a fitness certificate. At the same time, it is clear from Ex.W-6 that the petitioner was not allowed to duty as he was a casual employee. On the contrary, it is clearly admitted by the respondent that the petitioner has worked for a period of 10 months nearly 300 days preceding his oral termination. The respondent has replied that if any juniors to the petitioner are working in the company, he has to verify the records. The

natural inference would be that his juniors are working in the company after October, 1996 and no amount of compensation was paid to the petitioner as his oral termination amounted to retrenchment under the provisions of Section 25-F of the I.D. Act. It is also clearly admitted by the management that no seniority list is maintained for casual workers".

From the above, it is clear that from February 1994 to July 1994 and again from January 1995 to April 1995, the workman had worked for 10 months period and the management has not denied the sickness of the workman for 4 months period in the NIMS hospital and ESI hospital but denied that the workman reported to duty on 13.8.1995 with a fitness certificate. It appears, in view of some accident that had taken place at work place, the respondent was admitted in ESI hospital and he was treated there for about four months. If this plea is taken into consideration, it must be deemed that the workman had completed 10 months i.e. nearly 300 days, therefore, his termination from service was rightly found to be illegal and contrary to Section 25-F of the I.D. Act. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU,
J

Date: 26.4.2007
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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.22113 of 1997

26.4.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.22113 of 1997

Date: 26th April, 2007

Between:

M/s Siel Compressors Ltd., formerly known as
M/s Shriram Refrigeration Industries,
Balanagar, Hyderabad, rep. by its
Vice President Vipin Sondhi.

.. Petitioner

And

Additional Industrial Tribunal-cum-
Additional Labour Court,
M.J. Road, Hyderabad & others.

.. Respondents